

# REHIRED RETIREES PROCEED WITH CAUTION

**HCM USER GROUP MEETING**

**MARCH 17, 2015**

# THE REHIRED RETIREE DEBATE

- **Reasons to hire retirees:**
  - Ready Institutional knowledge
  - Experience, Skill and Ability
  - Can fill Critical Organizational Roles
  - Ideal for short term projects
  - Possible Cost savings (Pension/Training)
- **Reasons to consider alternatives:**
  - Fewer opportunities to advance
  - Decrease in employee morale
  - Practice can become a crutch (failed succession planning)
  - Pension Plan Qualification Risks
  - Pension Plan Actuarial Risks



# REHIRED RETIREE REMINDERS

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- Normal Service Retirement (Age 60/30 years svc; LE: Age 55/10): No return to service during 1<sup>st</sup> month after retirement; Early retirement: No return to service for first 2 months following retirement and no arrangements to return to work before rtrmt.
- A rehired retiree is a rehire that has received at least one pension payment – Under ERS and JRS –there is no provision to return to active contributing service. Allowed under LRS.
- Rehired ERS, LRS, and JRS retirees are limited to 1,040 hours of work per calendar year
- Rehired Retirees cannot be enrolled into the plan from which they retired or into GDCP
- However, if employment is covered by another plan, follow normal enrollment rules
  - Example: Retired District Attorney (JRS) becomes Assistant DA – enroll in ERS and report as a rehired retiree



# REHIRED RETIREE REMINDERS

- Once 1,040 hours reached – pension suspended for balance of the calendar year – automatically reinstated the following January
- Independent Contractor Exception – Exception to 1,040 hour rule applies when:
  - Working for or as a contracting entity, the retiree has multiple employees,
  - The contracting entity has multiple contracts and the contracts are not limited to State of Georgia Employers, **and**
  - The contractual relationship was not created to extend employment to a retiree in a position similar to that held before retirement
- General Assembly Exception – applies only to JRS retirees



# REHIRED RETIREE EMPLOYER RESPONSIBILITIES

- Within 30 days of hire - Notify ERSGA using the Rehired Retiree Reporting Form (available on ERS website)
- Employers can be liable for pension overpayments as a result of failure to notify the plan
- If retiree returns to service as employee, the data is provided by SAO - review the salary and hours worked, approve and submit
- If retiree returns to service as an independent contractor, Employer must add the rehired employee to the rehired retiree list, report salary and hours worked, approve and submit
- Notify ERSGA when the rehired retiree terminates employment – via Rehired Retiree module

# REHIRED RETIREE PLAN RISKS

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- **Defined Benefit Plan Risk of Disqualification**
  - Recent private letter ruling – IRS says rehired employees without a bona fide break or with pre-arrangements to return are NOT retirees (waiting for some time period is not enough)
  - The employer and employee relationship must be completely severed or an individual is not considered retired
  - So what happens when a pension plan pays pension benefits to someone still employed? In service Distribution – prohibited by IRS and can lead to disqualification.
  - If a pension plan trust loses its qualified status, the results are disastrous to employees, the employer and the plan:
    - All income sources: member contributions, employer contributions and investment earnings become taxable
    - Generally, employees must add employer contributions to income



# REHIRED RETIREE PLAN RISKS

- Increased Actuarial Risk on the Retirement Plan
  - ERS is a defined benefit plan – benefits are defined upfront by statute; paid regardless of market returns
  - Every defined benefit plan administrator wants to have \$1.00 in assets for each \$1.00 in actuarially accrued liability – That's called a 100% Funding Ratio – typically leads to lower employer rates
  - *Funded Ratio = Assets Available for Benefits/Actuarial Accrued Liability*
  - As of the last Actuarial Evaluation - ERS Funding Ratio was 71.4% (National Average 70.9%) NASRA
  - What can happen if the plan has enough non-contributors who also collect benefits – reduced funding ratios, neutral or decreasing benefits and increasing employer contributions
  - Studies indicate that as few as 100 Rehired Retirees in a workforce of 8,000 (1.25%) can make an actuarial impact

# NEXT STEPS – HOW WE CAN BE AUDIT PROOF

- Strengthen our Rehired Retiree Policy to include more safeguards designed to protect against:
  - Plan disqualification Risk – ensure that the plan only pays retirees
  - Negative Plan actuarial Risk – manage the numbers of rehired retirees
- Decrease reliance on Retirees - Work toward statewide improvements in succession planning, training and mentoring
- Improve internal reporting controls on reporting hours worked so its clear that the rehire retiree process is well managed and in compliance with IRS Regulations



# FINAL THOUGHTS

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- The discretion to rehire retired employees is a valuable management tool when well planned and with adequate controls in place
- Allows agencies to maintain institutional knowledge and fill critical short term needs
- However, when controls are not in place, the practice can put the plan at risk of disqualification and jeopardizing current employees' benefits
  - Thank you

